



Office of the Mayor and Council
City of College Park
8400 Baltimore Avenue, Suite 375
College Park, Maryland 20740
Telephone: (240) 487-3501

**NOTICE OF FINAL DECISION
of the
MAYOR AND COUNCIL
of the
CITY OF COLLEGE PARK**

RE: Case No. CPV-2021-02 Name: Henry Gomez-Brito & Jatnna Gomez

Address: 5005 Stewart Court, College Park, MD 20740

Enclosed herewith is a copy of the Resolution setting forth the action taken by the Mayor and Council of the City of College Park in this case on the following date:

March 9, 2021.

CERTIFICATE OF SERVICE

This is to certify that on March 11, 2021 the attached Resolution was mailed, postage prepaid, to all persons of record.

NOTICE

Any person of record may appeal the Mayor and Council decision within thirty (30) days to the Circuit Court of Prince George's County, 14735 Main Street, Upper Marlboro, MD 20772. Contact the Circuit Court for information on the appeal process at (301) 952-3655.

Janeen S. Miller, CMC
City Clerk

Copies to: Advisory Planning Commission
City Attorney
Applicant
Parties of Record

PG Co. DER, Permits & Review Section
M-NCPPC, Development Review Division
City Public Services Department

**RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK
ADOPTING THE RECOMMENDATION OF THE ADVISORY PLANNING
COMMISSION REGARDING VARIANCE APPLICATION NUMBER CPV-2021-02,
5005 STEWART COURT, COLLEGE PARK, MARYLAND, RECOMMENDING
APPROVAL OF VARIANCES FROM SECTION 27-120.01 (C) AND SECTION 27-442
(C) TABLE II FROM THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE,
TO EXPAND A DRIVEWAY**

- WHEREAS,** the City of College Park ("City") has, pursuant to §190-1 *et seq.* of the Code of the City of College Park ("City Code"), and in accordance with Sec. 27-924 of the Prince George's County Zoning Ordinance (hereinafter, "Zoning Ordinance"), enacted procedural regulations governing any or all of the following: departures from design and landscaping standards, parking and loading standards, sign design standards, and variances for lot coverage, setback, and similar requirements for land within the corporate boundaries of the City, alternative compliance from landscaping requirements, certification, revocation, and revision of nonconforming uses, and minor changes to approved special exceptions; and
- WHEREAS,** the City is authorized by § 190-1 *et seq.* to grant an application for a variance where, by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of the specific parcel of property, the strict application of the Zoning Ordinance would result in peculiar and unusual practical difficulties or an exceptional or undue hardship upon the owner of the property, and a variance can be granted without substantial impairment of the intent, purpose and integrity of the General Plan or Master Plan; and
- WHEREAS,** the Advisory Planning Commission ("APC") is authorized by §190-3 of the City Code to hear requests for variances from the terms of the Zoning Ordinance with respect to lot size, setback, and similar requirements including variances from Sec. 27-120.01(c) and Sec. 27-442 (c) Table II of the Zoning Ordinance, and to make recommendations to the City Council in connection therewith; and
- WHEREAS,** Section 27-120.01 (c) provides that no parking space, parking area, or parking structure other than a driveway no wider than its associated garage, carport, or other parking structure may be built in the front yard of a dwelling, except a townhouse or multifamily dwelling, in the area between the front street line and the sides of the dwelling; and
- WHEREAS,** Section 27-442 (c) Table II of the Zoning Ordinance specifies a maximum lot coverage of 30 percent in the R-55 zone; and
- WHEREAS,** on December 1, 2020, Henry Gomez-Brito and Jatnna Gomez ("Applicants"), submitted an application for a variance of 330 square feet (11 feet x 30 feet) to allow parking in front of the house and a variance up to 7.5% or 580 square feet from the maximum allowable lot coverage of 30% or 2,320 square feet for a property located at 5005 Stewart Court, College Park ("Property"); and

WHEREAS, on February 4, 2021, the APC conducted a hearing on the merits of the variance at which the APC heard testimony and accepted evidence including the staff report, exhibits, and the staff presentation with respect to whether the subject application meets the standards for granting a variance set forth in §190-4 of the City Code

WHEREAS, based upon the evidence and testimony presented, the APC voted 5-0-0 to recommend the approval of the variance; and

WHEREAS, the Mayor and Council are authorized by §190-6 of the City Code to accept, deny or modify the recommendation of the APC or return the variance application to the Commission to take further testimony or reconsider its recommendation with respect to variance requests; and

WHEREAS, the Mayor and Council have reviewed the recommendation of the APC as to the application for a variance and in particular have reviewed the APC's findings of fact and conclusions of law; and

WHEREAS, no exceptions have been filed.

NOW THEREFORE, the Mayor and Council are in agreement with and hereby adopt the findings of fact and conclusions of law of the APC with regard to CPV-2021-02 to approve variances to permit a parking area encroachment in the front yard.

Section 1 Findings of Fact

- 1.1 The property is located at 5005 Stewart Court (Lot 18, Block B) in the Sunnyside Subdivision, and is in the North College Park Community Association.
- 1.2 The property and immediate neighborhood are zoned R-55, single-family residential.
- 1.3 The property is mostly rectangular except for the front property line which is curved to accommodate a cul-de-sac. It has a width of 65 feet and an average length of 114 feet for a total area of 7,732 square feet.
- 1.4 The property is improved with a 1,307 square foot, split-foyer frame house that was built in 1970, a 151 square foot sunroom addition, a 70 square foot shed, and a 1,372 square foot driveway.
- 1.5 The driveway has a single-width apron and was expanded to a double width driveway pad without obtaining a City building permit. The apron was not modified. The original single-width apron encroaches in front of the house.
- 1.6 Stewart Court ends in a cul-de-sac where the subject property is located. There are 20 homes on Stewart Court all of which have driveways that encroach in the front yard. Nine driveways (45%) have a width that accommodates two cars.
- 1.7 Parking demand is high and curb space is severely limited due to the curved cul-de-sac and number of driveway aprons.

- 1.8 The front yard driveway encroachment ordinance was not adopted until 2002.
- 1.9 One of the homeowners has a medical condition that limits her mobility.
- 1.10 The homeowners currently have three vehicles. They would like to park all three off the Street for safety reasons. Currently, they can accommodate only two vehicles off-street.
- 1.11 The new Zoning Ordinance will permit lot coverage in the R-55 zone to be 35% but it has not yet gone into effect.

Section 2 Conclusions of Law

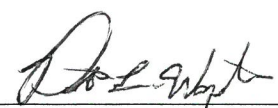
- 2.1 The property has an extraordinary condition as it is located on a cul-de-sac where every home has a driveway with apron thus significantly limiting the amount of curb space available for on-street parking.
- 2.2 The strict application of the Zoning Ordinance will result in the practical difficulty of limiting the number of vehicles that the owner can park off site and will create a hardship for one of the owners who has mobility limitations.
- 2.3 Granting the driveway variance will not substantially impair the intent or purpose of the applicable County General Plan or County Master Plan since all the driveways in the cul-de-sac encroach in front of the house and many have two-car width driveways.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of College Park to approve CPV-2021-02 for variances to permit a parking area encroachment in the front yard of 330 square feet (11 feet x 30 feet) and a lot coverage variance of 7.5% or 580 square feet.

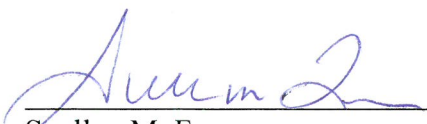
ADOPTED, by the Mayor and Council of the City of College Park at a regular meeting on the 9th day of March, 2021.

CITY OF COLLEGE PARK


 Janeen S. Miller, CMC
 City Clerk


 Patrick L. Wojahn, Mayor

APPROVED AS TO FORM AND
 LEGAL SUFFICIENCY


 Suellen M. Ferguson
 City Attorney